

New York State Conservation Department

3

State Development of Water Power

Statement of Clark H. Hammond, Corporation Counsel, City
of Buffalo, at the Joint Hearing of the Senate and
Assembly Judiciary Committees

ALBANY, N. Y., MARCH 12, 1912

ALBANY
J. B. LYON COMPANY, STATE PRINTERS
1912

Clark H. Hammond, Corporation Counsel, City of Buffalo, said:

I am sent here, Mr. Chairman and Gentlemen, in pursuance to a unanimous vote of the Board of Aldermen of the city of Buffalo taken yesterday, twenty-seven members voting in favor of sending the corporation counsel here to appear before your Committee to advocate the reporting out and passage of this bill.

The last speaker spoke about the Public Service Commission, as have some other speakers. I happen to have had some experience with the Public Service Commission and the Public Service Commissions Law. I do not want the Committee to understand me as being against that Commission or against that law. I believe it is a very proper law, and I believe that it is doing great good for the people of the State of New York; but, in this electric investigation that we have in Buffalo, I have discovered some holes in that law.

For instance, they say, Why, the Public Service Commission has the power to investigate. All you have got to do is to make a complaint to the Public Service Commission, and they will say whether the rates are reasonable or otherwise.

Well, the city of Buffalo has appropriated \$30,000 at the request of the mayor of the city of Buffalo and on his recommendation, for the purpose of having an investigation to determine whether or not the rates are reasonable as charged by the Buffalo General Electric Company and by the Cataract Power and Conduit Company, whose representative is here to-day and who registered his presence as against this bill.

Senator Wainwright:—How long has that proceeding been pending?

Mr. Hammond:—I have had charge of it, as I remember it, since about last November, that is when the complaint was filed.

Mr. Cohn:—Just before election, as you stated at Washington.

Mr. Hammond:—Your memory appears to be pretty good about that, Mr. Cohn, you have kept track of it very well; representing the other company, the Hydraulic Company.

Now, that is the situation in regard to the Public Service Commission.

In the gas merger that was up before the Public Service Commission in Buffalo, as to natural gas,—of course, outside of the State they haven't any public service commission, that is, in Pennsylvania,—Mr. Stevens, Chairman of that Commission, when asked by me to have the Commission make an appraisal of the property of these companies that wanted to merge, said, "Why, Mr. Hammond, it is impossible. We cannot do it." And there again, on my recommendation, the common council of the city of Buffalo appropriated five thousand dollars for the purpose of making an appraisal of the properties of the companies that it was proposed to merge.

FACTS FROM ACTUAL EXPERIENCE.

In the gas case, the artificial gas case, we have had an investigation before the Public Service Commission and the company's brief in that case is something like three months and a half overdue, should have filed its brief on the first of December, and there the city of Buffalo spent \$10,000 to have an investigation before the Public Service Commission.

Now, as I say, do not misunderstand me in that, that I am opposed to the Public Service Commission, because I am not. I am heartily in favor of it. But when you can reach out and take hold of these corporations by some more direct method, if you please, by some better method, so that you can say we will enter into competition with you, as they have done in Ontario, if you won't give us reasonable prices, under this bill, you can do it without spending \$30,000, you can do it without spending \$10,000, and you can do it without spending \$5,000 by a city, and you can avoid such a condition as the city of Buffalo faces to-day.

That is the Public Service Commission. When Chairman Stevens was asked this question as to why the Public Service Commission would not do it, he said, "It is impossible. We are over-flooded with work." He says, in the first place, "The Legislature has not been," as he expressed it, "very liberal with the Public Service Commission," and as liberal as it is, they haven't the funds available to do it in the first place; and, in the second place, he says that the Public Service Commission, being a judicial body, it should not enter into presenting a complaint against a corporation and then be expected to sit and judge

as to whether or not that complaint has been properly made. That is the statement of the Public Service Commission chairman in the second district.

So, when you talk about the Public Service Commission, I can give you the facts that I have been up against, and those are the facts.

Now, another proposition, a little hole that we have discovered. We have the Niagara Falls Power Company at Niagara Falls that generates and transmits electricity to the city line in Buffalo. It then transfers or sells that power to the Cataract Power and Conduit Company, the Niagara Falls Power Company being a majority stockholder of that company, the Cataract Power and Conduit Company, and the Cataract Power and Conduit Company then sells it to the Buffalo General Electric Company, and the Buffalo General Electric Company distributes it.

Now, I have looked with great care into the Public Service Commission's law and I have not found any provision where it is provided that a mayor of a city or a hundred consumers can file any complaint against a generating company if they don't do business with them.

Senator Burd:— Judge Hammond, may I ask you this question? Have you in your investigations discovered whether these successive companies sell for more than they buy it?

Mr. Hammond:— No, sir. I am finding out more about the electricity situation every day, and I hope to find that out before I get through.

Another thing about this Public Service Commission. I filed a petition containing ninety-five requests for information at the last hearing before the Public Service Commission, and the attorney representing the companies, Judge Kenefick, came in and said, why this information is all in Albany. Well, he had filed his 1911 report since I made the requests.

Now, does that show a very willing disposition on the part of these companies to give all the information that they have to the Public Service Commission to aid a municipality which is seeking to find out what are reasonable rates and what the facts are?

Those are facts, gentlemen. I know what I am talking about, because I have got that investigation in charge, and I know what I am right up against. And, in answer to the Senator's question, the impression was meant to be obtained here and given out that

they were willing at any time to be investigated. It took a year and a half in the Buffalo gas case, and an expenditure of \$10,000, and they haven't filed their brief yet.

That is the kind of co-operation you get.

THE BURDEN OF PROOF.

Senator Wainwright: — You understand to-day the burden of proof is on the consumer to prove whether the rates are unreasonable or not, don't you?

Mr. Hammond: — Chairman Stevens put that right up to me in this last hearing in this investigation. I said, you don't understand me on that point. You told me that in the gas case, when speaking about the furnishing of information requested, that this Public Service Commission wanted the facts. Well, he says, "this is different. You cannot expect the Commission to act as attorney and aid you in presenting your case." He says, "You have filed your complaint and you must show that the rates are unreasonable."

Senator Wainwright: — You found the burden was with you?

Mr. Hammond: — Yes, sir, that is what he said at the last hearing. There isn't any getting around these facts, they can be shown by the record.

Senator Wainwright: — That ought to be changed.

Mr. Hammond: — Well, it is so in the record in the electric investigation.

Senator Wainwright: — That ought to be changed. If there is a reasonable complaint as to a rate, the Public Service Corporation ought to justify it every time.

Mr. Hammond: — I have told you what I have been up against, Senator, and told you exactly what the Commission has said to me.

Now, to go back to my point that I was making to you, that we could not file any complaint against the generating company. What is the situation that we are confronted with in Buffalo to-day?

Why, the Niagara Falls Power Company sells to the Cataract

Power and Conduit Company at a certain rate. I understand it is sixteen dollars, but I don't know, a horse power. Supposing in this investigation that is on right to-day before the Public Service Commission we find out what the cost is to distribute and so forth, and we run right square up against that contract between the Niagara Falls Power Company and the Cataract Power and Conduit Company, and they say you cannot make us charge less than that because that is our contract and that is what we are paying for it. How are you going to get away from it?

You cannot investigate the generating company on any complaint. You do not find it in the Public Service Commissions law. And yet they tell you that the Public Service Commission will investigate right off hand and tell you whether these rates are reasonable or not.

Now, my experience, gentlemen, is to the contrary, and as I said before, this is with all due respect to the Public Service Commission, because they are doing a great good work, and as Chairman Stevens says, "we have human limitations as well as other limitations and these must be recognized."

WHO CONSTITUTE THE OPPOSITION?

As I sat here this afternoon and listened, who was it, that appeared against this bill as a general proposition? It was the power and electric light companies throughout this State that are appearing here to-day against this bill. That is who it was. Exactly. And we find the same situation everywhere.

I remember appearing before the Railroad Committee of the Assembly right here in this building, when the last amendment was passed to the Public Service Commissions law. The first speaker to speak here to-day appeared there and opposed that amendment. That is the situation we are confronted with every time. He spoke that day against giving the Public Service Commissions any further power and said that they had all the regulation that they wanted, and yet I am very happy to say that the amendment was passed, and it is on the statute books to-day right where it ought to be.

The great trouble has ever been, gentlemen, from my short experience, that the people generally have let these things go by default, whereas these companies have absolutely been on the job every minute here, they have been watching the things every

second to see that there was not anything put over that was going to hurt their interests; and the trouble is that the people throughout the State in the different cities do not send their representatives here and don't give you gentlemen the light that you ought to have in these matters.

That is the way it looks to me.

Chairman Bayne: — Judge Hammond, to what extent do you understand that this bill modifies the jurisdiction of the Public Service Commission or takes away any of their jurisdiction?

Mr. Hammond: — I understand from reading the bill over that it modifies the Public Service Commissions Law in one or two slight particulars. One, for instance, as I recollect, you can fix the rates of the electric companies where you are doing this distributing and the making of contracts, etc., as I understand.

Chairman Bayne: — Does it give this Commission concurrent jurisdiction to that extent?

Mr. Hammond: — No, sir, it takes away from the Public Service Commission to that extent.

We had the same situation in Buffalo at the time that the Public Service Commissions Law, the first law, not the amendment, was up in the city of Buffalo, at a meeting of the Chamber of Commerce. What did we find there? We found Judge Kenefick, the head of the firm that Mr. Letchworth here represents to-day, representing the Buffalo General Electric Company, and the Cataract Power and Conduit Company, taking the floor of the Chamber of Commerce and saying, "I am here as the paid representative of these companies to oppose the enactment of any law of this kind. We don't want any regulation."

Now, that is exactly the situation that you have here to-day.

A lot of things have been said about the impossible things, both in a humorous vein and a serious, and what would happen under this bill. I have not gone into the details of this bill, but I do say that I have compared this bill with the act creating the hydro-electric commission in Ontario, and I find that the bills are almost identical.

Chairman Bayne: — That is a going concern and it has not taken a billion dollars so far?

THE CANADIAN SITUATION.

Mr. Hammond:— That is what I was coming to, if the Chairman please. When I started out on this electric situation that I was confronted with, when the matter was turned over to me; I said I want to know something about it, and I went to Canada; I went to Hamilton, and I went to Toronto, and I went to these other places, and I went through their stations, and I was treated very courteously, so that I think I know something about it, something about the situation as it exists over there in the hydro-electric line, having talked with the engineers of that Commission.

Now, it seems to me it is a perfect answer here to all this talk that has been advanced that it cannot be done, that it is unreasonable, that it is socialistic, and everything else; the whole answer is, gentlemen, it is being done to-day, and has been for a year and a-half to two years, and it is done right in Canada.

Senator Ferris:— Right in that connection can you tell what the response of the people has been and to what extent it is being done?

Mr. Hammond:— We have got the report here of the hydro-electric commission and it will tell you what they have done.

Senator Ferris:—How much power have they, are they selling or have they sold, how much horsepower?

Mr. Hammond:— I cannot tell you the total amount.

Senator Ferris:— Do you know the total expense, the amount expended?

Mr. Hammond:— I do not.

Senator Ferris:— Isn't it a fact that they are selling now about 30,000 horsepower?

Mr. Hammond:— I can't tell you.

Chairman Bayne:— Senator Ferris, you can tell us.

Senator Ferris:— My recollection is 30,000.

Commissioner Van Kennen:— Approximately 40,000 horsepower, serving 26 municipalities and costs less than five millions.

Mr. Hammond:— These larger figures given, as I have listened to them, are scare heads.

Senator Ferris: — You do not know what it has cost?

Mr. Hammond: — I know that I have been to Toronto and Mr. Stewart, who was the mayor there at that time, said, we had the people vote on it, and we had them say whether they wanted to do it or not, and we have done it, and they are satisfied. They were not promised that it would be as free as air, as stated here to-day.

I don't know about the cost. I do not carry these figures in my head, because I did not think it was necessary for the purpose of my proposition, but I do say that that is the situation, that it has been submitted to those people, that they have voted on it and they are pleased with it, and they have voted, some of them, like Hamilton, four different times in four different forms on the proposition, and every time it has been carried practically from two and three to one against the power interests over there. I know this, and I know what I am talking about.

I have read somewhere, or heard it here to-day, something about it costing ten dollars, and this was said here to-day \$10.40 at the Falls per horsepower, and it cost practically eight dollars to transmit it from the Falls to Toronto, making it \$18.50 a horsepower there without distribution. Now, I know that the city of Buffalo, which is less than one-third, as I recall, the distance, or about one-third the distance from Niagara Falls that Toronto is, is paying — not on distribution, because their power is brought and delivered direct to the city to run the pumping station of the city, so it requires no distribution, it is brought right there — \$25 a horsepower, and in Hamilton, the city of Hamilton is paying for the same stuff \$17.95, a difference of about seven dollars. It is delivered right to the city and delivered by them to run their waterworks.

Senator Burd: — Are you able to state offhand how much, if any, power you get in the city of Buffalo from the American companies at Niagara Falls?

Mr. Hammond: — We get some; I do not know how much.

Senator Burd: — Do you know what proportion as compared with what we get through Canada?

Mr. Hammond: — I understood it went as high as one-half from Canada; I understood it went as high as that.

Here is another proposition why I believe this bill should be enacted into law — and right here I want to say there has been some question raised and I want to show you the situation in Buffalo.

NOT A PARTISAN QUESTION.

Now, the corporation counsel of the city of Buffalo is elective and, of course, the mayor is elective. The corporation counsel, being elected, he is not appointed, and the mayor is elected, and the corporation counsel and the mayor ran at the same time. It happened at the election here two years ago last fall that a mayor was elected who was a Democrat, and I was elected and I am a Republican. So that there are no politics in this, gentlemen. We want you to understand that situation. We woke up to the facts, that is all. And you find the Democratic mayor and the Republican corporation counsel fighting shoulder to shoulder on this proposition to get what we consider the proper rights of the city of Buffalo, if we can get them, and that is why we appear here in this room, saying our say and favoring legislation that we believe is proper and of benefit to the citizens of Buffalo.

Now, another reason why this bill should be enacted into law. These same power companies, or some of them, were represented at the hearing before the Foreign Affairs Committee of the House of Representatives at Washington. There they were, gentlemen. They were there to have an increased amount of water diverted from Niagara Falls under the treaty between Great Britain and the United States. I was representing the city by instruction from the same board that I appear here for, the board of aldermen. I, too, said, let us have all the water that can be diverted under the treaty, but right there the water interests and the people of the city of Buffalo divided. They said they wanted the water. I said no, not the power companies. Let the State step in and take the water. And that is another reason why this law should be enacted.

The State Conservation Commission under this law can very properly say, we will take this 4,400 cubic feet per second, and then they could utilize that water, and give it through the provisions of this bill to the people of the State of New York, where we believe it belongs.

And, in that connection I advocated Federal control of these power companies, because why?

Because the Federal Government, as I view it from the informa-

tion that I have at hand, under that treaty can regulate in a way that the State of New York can not do the importation of power from Canada; let them bring it in and let them fix the price. The Federal Government can do that, but the State of New York can not. That is another reason why I believe this bill should be enacted into law.

Now, there have been so many things said here about these rates, and so on, how the rates are reasonable in Buffalo and things of that kind, and at different places.

YET THEY SAY IT IS SOCIALISTIC.

Why, Ottawa is getting power, as I understand it, at sixteen dollars a horsepower, twenty-four hour service, peak load basis. That is the way they are buying it, as I understand it, down there, and yet they say that it is Socialistic, and that it is improbable and impossible to do what the Canadian government is doing in the Province of Ontario to-day.

As I read the figures in the contract of the hydro-electric commission, my friend, who spoke here, is not correct, and they are in an annual report held by the Senator. They pay \$9.40 and not \$10.40 a horsepower, and that is only for 25,000 horsepower, and what they use over that they get for nine dollars flat. That can be easily substantiated whether he is right or whether I am right. I base my statement on the figures in that report.

Senator Ferris: — Section 16 says, of the contract entered into between the Hydro-Electric Power Commission and the Ontario Power Company, under date of 12th of August, 1907: "The Commission hereby agrees to pay to the company for such power delivered under the terms of this agreement the sum of ten dollars and forty cents (\$10.40) per horsepower per annum when the amount reserved and held ready, upon the order of the Commission, for delivery under the terms hereof, is less than twenty-five thousand (25,000) horsepower, and when the amount reserved and held ready for delivery upon like order exceeds twenty-five thousand (25,000) horsepower, the Commission agrees to pay the sum of ten dollars (\$10) per horsepower per annum. The power shall be paid for monthly."

That is the language of the agreement, unless it has been amended.

Of course there has been a great difference in statement as to

the actual amount they are using. I take it is because one refers to the contracted power and one to the other. The testimony before our Commission of Mr. Beck was not accurate. I do not mean to say he did not mean to make it honest, but he did not know exactly and could not give any particular data, but it varies from 25 to 40 thousand horsepower.

Commissioner Van Kennen:— They are increasing all the time and taking on new municipalities. It must be considerably more now than two months ago when he appeared.

Mr. Hammond:— I thought I saw in another place where it was \$9.40 and \$9.

Senator Ferris:— It may have been an amended contract. I turned to the contract of 1907.

Mr. Hammond:— When I saw Mr. Drakeman, corporation counsel of Ontario, he then told me it was \$9.40 and \$9.

Chairman Bayne:— At the present time?

Mr. Hammond:— Yes, sir.

Senator Burd:— If the gentlemen will permit me, I will read from the amended contract:

“The Commission hereby agrees to pay to the company for such power so delivered under the terms of this agreement at the rate of \$9.40 per horsepower per annum for power at 12,000 volts, and at the rate of \$10.40 per horsepower per annum for power at 60,000 volts, and when the amount reserved and held ready for delivery upon the order of the Commission is in all 25,000 horsepower or more, payment shall be made at the rate of \$9 per horsepower per annum, for power at 12,000 volts, and at the rate of \$10 per horsepower per annum for power at 60,000 volts.”

Senator Ferris:— It all depends upon the amount delivered.

Mr. Hammond:— I understood it was \$9.40 and \$9. Another thing, they talk about this being an improbable proposition; there was a party appeared before this same Committee, this House of Representatives Committee, who said that he was willing to contract with the city of Detroit and would meet any price that was being made in the city of Detroit to-day on electricity at a reduction of just 20 per cent on any rate they made.

Senator Wainwright:— How far are they transmitting the power in Toronto? A. A distance of 280 miles.

Mr. Hammond:— They are transmitting it as I understand it for a distance of about 280 miles.

Commissioner Van Kennen:— High tension lines?

Mr. Hammond:— Yes, sir.

Senator Wainwright:— So, in other words, if this went into effect, there would still be hope for us down in Westchester.

Mr. Hammond:— I might say further in regard to what this Detroit man said as to his proposition. He has made a contract with the Hydro-Electric Commission of Canada, actually signed and in existence to-day, where he can have all the power that he wants to supply at Detroit, for a 10 per cent. increase on what they are actually supplying to Windsor to-day. So that on this improbable proposition that these gentlemen talk about, here is a man who says, I pay 10 per cent. more for my power from the Hydro-Electric Commission right across the river at Windsor, and I will meet and compete by 20 per cent. any rate that you have got in the city of Detroit. That makes a 30 per cent. difference there.

Senator Ferris:— Is he operating in Detroit now?

Mr. Hammond:— No, sir; that is one reason he is down there. He wants to get, if he can, more power, so as to make it possible to carry out his proposition; and that is why he appeared before that committee.

Mr. Freeman:— Senator, with the consent of the speaker, I would like to ask him a question, because it has an important bearing on what has been said.

Mr. Hammond:— What is that?

Mr. Freeman:— Bearing on this, on the claim that what is expected of this bill is now being done in Ontario, I want to ask the speaker if it is not a fact, of his knowledge, that the Ontario Government owns no power plant, generates no current, has no investment whatsoever relating to the generation of current and buys its current of a private company; therefore, the investment of five millions spoken of relates to distribution lines alone and represents even for the 40,000 horsepower that the chairman referred to,

which I think is very excessive, \$125 a horsepower of investment for distributing lines alone?

WHAT THE POWER COMPANY DID.

Mr. Hammond:— I can answer that in this way, if the Chairman will permit me. What the gentleman has said is true. There is not any question about that. But, the Hydro-Electric Commission of Ontario could do under their act just what this Commission could do, but they did not see fit to do it, because why? Because the power company of Ontario, the power company of Niagara Falls said, we will supply you power at \$9.40 and \$9. That is just what this Commission could say to any power company that is generating it now, and then they could say whether or not they want to erect a generating plant, or want to buy it at a reasonable price in the different places from the companies that are now generating it.

Chairman Bayne:— Under this bill, would the New York Commission be obligated to do anything more than the Canadian Government?

Mr. Hammond:— Absolutely not. That is the answer to that question. They could do exactly the same.

Mr. Hammond:— I will just call your attention to this one thing in the Hydro-Electric Commission's Report. They talk about it not having any basis, about its being theory, and these different things we have been hearing all about here to-day, that it is something that is next to nothing, and that is now on the crest of the wave; that it never will be any better than it is to-day, and it is going down and it is going to pieces and going to smash, and all that sort of thing.

Well, I want to tell you if you go over there and go through these substations you won't think it is going to smash. I never went through any finer ones. Concrete work; things that are put in in a lasting and absolutely modern way, with everything up-to-date, and then to hear the statements that have been made here to-day, it is really amusing; because, they have come and are built to stay, I can tell you that, in the Hydro-Electric Commission in Ontario.

In this report of the Hydro-Electric Commission there is given the difference in the rates in Ottawa, where the Hydro-Electric

Commission made a contract to supply power to the city of Ottawa, and this is the record, page 119, first report, 1908:

“For several years prior to 1901, the Ottawa Electric Company had a monopoly of the electric business in Ottawa. The rates then charged were:

“15 cents per net 1,000 watt hours for light.

“\$40.00 and up per horse-power for power.

“\$65.00 per arc lamp for lighting the streets:

“For three years now the rates have been:

“ $7\frac{1}{2}$ cents net per 1,000 watt hours for light.

“\$25.00 per horse-power for power.

“\$45.00 per arc lamp for lighting the streets.”

Which means a reduction in the first of a little more than one-half, and in the next from \$40 reduced to \$25, and in the last item, reduced \$20, \$65 to \$45.

Senator Ferris:—Another question. That reduction was of course caused by the competition of the Hydro-Electric?

Mr. Hammond:—It cost the city absolutely no money to contract with the Hydro-Electric to get power at the rates they gave them.

Senator Ferris:—This is 1905 to 1908? Three years prior to 1908 was that?

Mr. Hammond:—Yes, sir, that would be three years.

Senator Ferris:—Well, as a matter of fact what was the date of their contract with the Hydro-Electric, with the Ontario Company?

Mr. Hammond:—Oh, they did not get this power from the Falls. This power is not furnished clear to Ottawa from the Falls. It is furnished under this Commission.

Senator Ferris:—This is furnished, as a matter of fact, from Ottawa?

Mr. Hammond:—Not from Ottawa, but near Ottawa.

Senator Ferris:—Near Ottawa?

Mr. Hammond:—Yes, sir, water power there.

Senator Ferris:—I will ask you in that connection, do you mind?

Mr. Hammond:—No, sir.

Senator Ferris:—I want to clear this up.

Mr. Hammond:—Heretofore I have learned some facts, and what I am here for, as I pointed out, is to give you gentlemen and this committee all the facts that I have got to give you and then you are to determine whether or not this legislation ought to be reported out.

Senator Ferris:—That is exactly what we want to bring out. If you do not mind I would like to do it by questions.

Mr. Hammond:—Yes, sir.

AN ANALOGOUS SITUATION.

Senator Ferris:—This case was very comparable, was it not, to your situation in Buffalo? In other words, they had a strong natural water flow near Ottawa?

Mr. Hammond:—Yes.

Senator Ferris:—And the power they brought into Ottawa?

Mr. Hammond:—Yes, sir.

Senator Ferris:—Under this bill, as I understand it?

Mr. Hammond:—Yes, sir.

Senator Ferris:—Would you be in the same position in Buffalo as the Ottawa people were in Ottawa?

Mr. Hammond:—They would travel a distance there of twenty-two miles; that is what it is into Buffalo.

Senator Ferris:—Approximately that?

Mr. Hammond:—Yes, sir.

Senator Ferris:—The difference is negligible?

Mr. Hammond:—Yes, sir.

Senator Ferris:—And then under this bill you could make a contract in Buffalo, I take it, with the State, that is if you determined to do it?

Mr. Hammond:—After a special election.

Senator Ferris:—After a special election?

Mr. Hammond:—Certainly.

Senator Ferris:—After the referendum?

Mr. Hammond:—Yes, sir.

Senator Ferris:—You would make a contract with the State, a contract for Niagara power at cost, plus the amortization charge?

Mr. Hammond:—There are a lot of things that go to make up the cost. These taxes talked about are figured in and everything figured in so as to make up the cost.

Senator Ferris:—You would make the contract with the Commission at cost, made up of these various items, plus?

Mr. Hammond:—Yes, sir.

Senator Ferris:—Including a sum to amortize the cost of the project?

Mr. Hammond:—Yes, sir.

Senator Ferris:—That contract under the bill could run any length of time you determine?

Mr. Hammond:—I think that, of course, would be for the Commission to determine; I think they probably would make one for a certain number of years.

Senator Ferris:—We will say fifty years. To terminate in fifty years, and at the end of fifty years you would be enabled to make another contract at cost, wouldn't you?

Mr. Hammond:—Yes.

Senator Ferris:—And that cost, of course, would not include the amortization charge?

Mr. Hammond:—I assume that it would; why not?

Senator Ferris:—Because the amortization pays the cost.

Mr. Hammond:—I know, but your plant has got to be kept up; you have got to set up that amortization account every year, I don't care how long they run.

Senator Ferris:— You do not figure amortization in as a maintenance fund, do you?

Mr. Hammond:— I figure that an amortization account should always be kept, because as long as you have got any machinery you have got to have your plant in proper condition to operate and right in an up-to-date condition and replace anything that is worn out.

Senator Ferris:— So that on your theory the cost would always include an amortization charge?

Mr. Hammond:— It would include whatever was sufficient, I should say.

Senator Ferris:— You mean you would have a sinking fund to maintain and replace?

Mr. Hammond:— Yes, sir, absolutely. I don't care what you call it. I may not use the term correctly, but I say you have to have the rate you make keep that plant in good condition all the time.

Senator Ferris:— Perhaps we misunderstand each other. I was speaking about the cost of installation in the first instance. So that for the second period, whatever the time was, the apparatus and its cost would be out of consideration?

Mr. Hammond:— Yes, sir.

Senator Ferris:— In other words, you would have during the first twenty-five or fifty years your plant reduplicated by your amortization account, and it would be possible to eliminate that charge?

Mr. Hammond:— Yes, sir.

Senator Ferris:— So that your second charge in Buffalo, upon the basis that you gentlemen have figured this bill — that first charge would be the actual cost, including the amortization for the first fifty years, of electricity delivered from Niagara Falls to Buffalo?

Mr. Hammond:— Yes, sir.

Senator Ferris:— The second period would be the same cost less the amortization?

Mr. Hammond:—That is right.

Senator Ferris:—For the second period of fifty years?

IS THIS A VISION?

Mr. Hammond:—That is right.

Now, then, this is another sentence from this report in regard to power. All of this, as I claim, seems to be pertinent as bearing upon the proposition, that it is a vision over in Canada, nothing material, and that it is going to fade away, as it were:

“There can be no doubt that your Commission saved the situation for Ottawa when you stepped in and made the contract referred to. Without this intervention the city would have been out \$250,000 spent on a distributing plant, the Ottawa Electric Company would have a monopoly, and the people of Ottawa would have had to pay at least \$100,000 a year more than they are paying now for their electric light.”

And yet they say this is a vision.

Senator Ferris:—Just a moment. As a matter of information—I do not want to get this Buffalo situation out of my mind. What is the total amount of power used in Buffalo?

Mr. Hammond:—I can not give you those figures. I do not carry those in my head.

Senator Ferris:—Have you got it?

Mr. Freeman:—No, I have not.

Commissioner Moore:—The public service commission report for 1910 says there were distributed by the Buffalo General Electric Company 24,196,968 kilowatt hours.

Commissioner Van Kennen:—Reduced to horsepower, that is about how much?

Commissioner Moore:—It is an average load of 10,000 horsepower continuously.

Mr. Hammond:—I know this, that we are paying in Buffalo to-day from four to nine cents a kilowatt hour.

Senator Ferris:—Any steam plants installed in Buffalo?

Mr. Hammond: — No, sir; that is another thing, talking about coal —

Senator Ferris: — No steam plants installed to generate and sell power; aren't they manufacturing power with these steam plants?

Mr. Hammond: — Private plants.

Senator Ferris: — What, do you mean to tell me that in Buffalo you only use ten thousand horsepower?

Mr. Hammond: — I don't know what is used in Buffalo.

Mr. Moore: — That is the average load; it does not include peaks.

Mr. Hammond: — I mean to tell you that there is not any public service corporation selling any power or electricity for light, heat or power in Buffalo to-day except what comes from Niagara Falls or over the line not steam generated.

Senator Ferris: — Then, that does not anything like represent your power consumption?

Mr. Hammond: — That is very true. They own their own plants. The Prudential building, Ellicott Square building, the Statler hotel, and the Lafayette hotel, and the Pierce building; they have their own plants.

I understood the gentleman to tell you to-day that hydro-electric power could not compete with steam power. If that is so, why did the Buffalo General Electric Company throw out its boilers and put in hydro? The Buffalo General Electric before they brought their power from the Falls used to have a steam generating plant. They absolutely threw it out, threw out their boilers and put in new apparatus to take care of the hydro-electric.

Why did they do it? Because it was more expensive?

Senator Ferris: — I am beginning to get my ideas along the line of yours, and I want to ask you one more question.

Your whole argument here has been along the line of the public service power in Buffalo, has it not?

Mr. Hammond: — Yes, sir.

Senator Ferris: — You have not attempted to cover the private manufacturing plants?

Mr. Hammond: — I expect to do that in my investigation.

Senator Ferris: — That is just the point. So that, as a matter of fact, the probabilities are that the private owned plants will run up probably 100,000 horsepower, will they not?

Mr. Hammond: — I presume that is so.

As I said before, gentlemen, I have got all kinds of information here in details that I have been able to gather. I do not know how correct it is. According to the statements I have heard here it would seem that there is hardly any of it correct. And I would be very glad indeed to answer any questions I can and if I can, arrange to stay over, if I can be of any service in this proposition. But, I want the committee and the Conservation Commission to understand that Buffalo is with them on this proposition. I do not say that as to every detail of this bill. There may be some things about that that ought to be changed in this or that or the other bill, but, I am not afraid of any constitutional provision, when you submit the proposition to the people and have them vote on it and have them say whether or not it shall be done, and then say, like they do in Ontario, we will let you people contract with us, if you want to, at reasonable rates, and if you won't at reasonable rates we will enter into competition with you. Just what they did over in Ontario.

And, another thing in Canada. One man told me in a talk on the proposition, a man who has been with it, and slept with it, that the power companies thought that we would not dare enter into competition and that is why they would not reduce rates, and when we put up that proposition and they would not reduce rates, it was right up to the government to say whether or not it would make good on their threat, or whether they would not, and they made good.

NO FADE-AWAY PROPOSITION.

It is not any fanciful crest wave proposition or fade-away proposition at all.

Senator Griffin: — As a matter of fact, would Buffalo take most of the undeveloped power at Niagara, Mr. Hammond?

Mr. Hammond:—If we could get it at a reasonable rate I do not think there is any question but what we would take two or three times what we would get. The trouble has been with the rates.

Senator Ferris:—If that is so the people down in Utica cannot expect much?

Mr. Hammond:—You have got other water power, just as they have at Ottawa, which can take care of you.

Senator Ferris:—I thought each locality were entitled to this one water power in proportion—

Mr. Hammond:—As I understand this bill it puts that up to this Commission; they have control of that situation. I do not say that a certain particular water power should be used only for a particular locality. But, I say, in the wise judgment of this Commission, if they have the power to do what that bill gives them the power to do, they will give you relief in a way that you won't get, in my humble opinion, in any other way.

Senator Ferris:—To get back to my question. If Buffalo takes the most of the power at Niagara, the rest of us in the State, we will have to take what is in the Adirondacks?

Mr. Hammond:—Or elsewhere, if Buffalo gets it all.

Senator Ferris:—Is it your theory that under this bill this power should be spread over the State uniformly?

Mr. Hammond:—I have not gone into that. I think under the bill it is up to the Commission to say.

Senator Ferris:—Whether Buffalo gets it all or we get some of it?

Mr. Hammond:—I suppose that is up to the good judgment of the Commission.

Senator Burd:—In response to the question of the Senator, has it occurred to you that there is possibly 100,000 horsepower that can be developed below the Falls?

Mr. Hammond:—Yes, sir.

Senator Burd:—And yet not interfere with the scenic beauty of the Falls?

Mr. Hammond:—And not only that, but another question — and these questions keep coming up here all the time — and that is you can have a more efficient plant than what you have got in some plants at Niagara Falls and utilize your water and get more power out of the water.

Senator Ferris: — There is no doubt about that.

Mr. Hammond: — That is still another proposition.

Senator Burd: — It is possible to double the development of power?

Mr. Hammond: — I would not say it would double it. I understand it would be about twenty —

Commissioner Moore: — One of them could be doubled and the other increased about twenty per cent.

Mr. Freeman: — I would like to ask the judge wherein he figures any basis for his contention that an allowance is to be made for taxes in the computation of the charge that is to be made for this electric current?

Mr. Hammond: — You mean as to what I said was done in Canada?

Mr. Freeman: — No, here?

THE QUESTION AS TO TAXATION.

Commissioner Van Kernen: — The State taxes its property over here.

Mr. Hammond: — I am not sure of that, but what I said, these taxes and everything else that is a proper charge is figured in and goes into the cost of that power.

Senator Ferris: — You do not mean to say that it would not be a proper thing for the State to tax its own property used for its own works?

Commissioner Van Kernen: — It taxes its own lands in the Adirondacks.

Mr. Hammond: — I know the city of Buffalo taxes its own property.

Senator Burd:—I would suggest in connection with that, that this Legislature passed a bill which taxes State property out in the western part of the State.

Mr. Hammond:—I say whatever is included, if taxes are a proper charge it will be included.

Senator Ferris:—What you mean to say is that it would be included if the bill was amended?

Mr. Hammond:—Yes, sir.

Mr. Freeman:—I simply raised the point, Mr. Chairman, because the statement I made as to taxes was disputed. I just wanted to bring out the fact that it was not a misstatement; and, with the permission of the Chairman and with the permission of the gentleman, I would like to ask one other question.

Mr. Hammond:—I did not mean to dispute your statement as to the taxes; that was the farthest thing from my intentions.

Mr. Freeman:—There has been some question raised as to accuracy, a dispute as to the accuracy of facts, facts which have been submitted in one or two cases; I ask the gentleman, man to man, who is right on the questions wherein there are disputes, questions on which evidence has been submitted?

Commissioner Van Kennen:—On what point: Do you mean the rate at Toronto?

Mr. Freeman:—Any matters of dispute wherein the facts have been presented?

Mr. Hammond:—I understand what he means. I have made the statements that it costs a certain price over in Hamilton and Toronto, and I am perfectly willing to stand on whatever the facts show. I assure you, gentlemen, I meant to make no statement based on other than the facts. But, I very often find in the trial of lawsuits that many honest people see things differently.

